

Short Title: Collaborative Law.

A BILL TO BE ENTITLED

AN ACT TO ENACT THE UNIFORM COLLABORATIVE LAW ACT.

The General Assembly of North Carolina enacts:

SECTION 1. Chapter 1 of the General Statutes is amended by adding a new Article to read:

"Article 53.

"UNIFORM COLLABORATIVE LAW ACT.

"§ 1-641. Short title.¹

This ~~act~~Article may be cited as the Uniform Collaborative Law Act.

"§ 1-642. Definitions.

~~In this act:~~The following definitions apply in this Article:

(1) ~~"Collaborative law communication" means a~~Collaborative law communication. – A statement, whether oral or in a record, or verbal or nonverbal, ~~that:~~that does all of the following:

~~(A)a. is~~Is made to conduct, participate in, continue, or reconvene a collaborative law ~~process; and~~process.

~~(B)b. occurs~~Occurs after the parties sign a collaborative law participation agreement and before the collaborative law process is concluded.

¹ The changes shown by striking-through and underlining are proposed changes to the text of the Uniform Collaborative Law Act. The designators "a." and "1." are substituted for the Uniform Act's designators "(A)" and "(i)" throughout the draft to conform to the numbering system used in the General statutes. Other style changes include capitalizing the first word in a tabular list, capitalizing "state" when referring to North Carolina, adding "of this section" after subsection and subdivision references, using the entire defined term throughout the draft rather than a short form of the defined term, and using "shall not" rather than "may not."

- (2) ~~“Collaborative law participation agreement” means an~~Collaborative law participation agreement. – An agreement by persons to participate in a collaborative law ~~process.~~process under this Article.
- (3) ~~“Collaborative law process” means a~~Collaborative law process. – A procedure intended to resolve a collaborative matter without intervention by a tribunal in which ~~persons;~~persons do all of the following:
- (A)~~a. sign~~Sign a collaborative law participation ~~agreement;~~
~~and~~agreement.
- (B)~~b. are~~Are represented by collaborative lawyers.
- (4) ~~“Collaborative lawyer” means a~~Collaborative lawyer. – A lawyer who represents a party in a collaborative law process.
- (5) ~~“Collaborative matter” means a~~Collaborative matter. – A dispute, transaction, claim, problem, or issue for resolution, including a dispute, claim, or issue in a proceeding, which

Alternative A

~~is described in a collaborative law participation agreement and arises under the family or domestic relations law of this state, including:~~

- (A) ~~marriage, divorce, dissolution, annulment, and property distribution;~~
- (B) ~~child custody, visitation, and parenting time;~~
- (C) ~~alimony, maintenance, and child support;~~
- (D) ~~adoption;~~
- (E) ~~parentage; and~~

~~(F) — premarital, marital, and post-marital agreements.~~

Alternative B

is described in a collaborative law participation agreement.

End of Alternatives

(6) ~~“Law firm” means:~~Law firm. – Any of the following:

~~(A)a. lawyers~~Lawyers who practice law together in a partnership,
professional corporation, sole proprietorship, limited liability
company, or ~~association; and~~association.

~~(B)b. lawyers~~Lawyers employed in a legal services organization, or the
legal department of a corporation or other organization, or the legal
department of a government or governmental subdivision, agency,
or instrumentality.

(7) ~~“Nonparty participant” means a~~Nonparty participant. – A person, other
than a party and the party’s collaborative lawyer, that participates in a
collaborative law process.

(8) ~~“Party” means a~~Party. – A person that signs a collaborative law
participation agreement and whose consent is necessary to resolve a
collaborative matter.

(9) ~~“Person” means an~~Person. – An individual, corporation, business trust,
estate, trust, partnership, limited liability company, association, joint
venture, public corporation, government or governmental subdivision,
agency, or instrumentality, or any other legal or commercial entity.

(10) ~~“Proceeding” means:~~Proceeding. – Any of the following:

1 ~~(A)a.~~ ~~a~~A judicial, administrative, arbitral, or other adjudicative process
2 before a tribunal, including related prehearing and post-hearing
3 motions, conferences, and ~~discovery; or~~discovery.

4 ~~(B)b.~~ ~~a~~A legislative hearing or similar process.

5 (11) ~~“Prospective party” means a~~Prospective party. – A person that discusses
6 with a prospective collaborative lawyer the possibility of signing a
7 collaborative law participation agreement.

8 (12) ~~“Record” means information~~Record. – Information that is inscribed on a
9 tangible medium or that is stored in an electronic or other medium and is
10 retrievable in perceivable form.

11 (13) ~~“Related to a collaborative matter” means involving~~Related to the
12 collaborative matter. – Involving the same ~~parties,~~ transaction or
13 occurrence, nucleus of operative fact, dispute, claim, or issue as the
14 collaborative matter.

15 (14) ~~“Sign” means, with~~Sign. – With present intent to authenticate or adopt a
16 ~~record;~~record to do any of the following:

17 ~~(A)a.~~ ~~to execute~~Execute or adopt a tangible ~~symbol; or~~symbol.

18 ~~(B)b.~~ ~~to attach~~Attach to or logically associate with the record an
19 electronic symbol, sound, or process.

20 (15) ~~“Tribunal” means:~~Tribunal. – Any of the following:

21 ~~(A)a.~~ ~~a~~A court, arbitrator, administrative agency, or other body acting in
22 an adjudicative capacity which, after presentation of evidence or

legal argument, has jurisdiction to render a decision affecting a
party's interests in a ~~matter;~~ or matter.

~~(B)~~b. ~~a~~A legislative body conducting a hearing or similar process.

"§ 1-643. Applicability.

(a) This [act]~~Except as provided in subsection (b) of this section, this Article~~ applies
to a collaborative law participation agreement that meets the requirements of ~~Section 4~~G.S. 1-
644 signed ~~[on or]~~ after [the effective date of this [act]].

(b) This Article does not apply to a claim arising under Chapter 50 of the General
Statutes.

"§ 1-644. Collaborative law participation agreement; requirements.

(a) A collaborative law participation agreement ~~must;~~must meet all of the following
requirements:

(1) ~~be~~Be in a ~~record;~~record.

(2) ~~be~~Be signed by the ~~parties;~~parties and their collaborative lawyers.

(3) ~~state~~State the parties' intention to resolve a collaborative matter through a
collaborative law process under this ~~[act];~~Article.

(4) ~~describe~~Describe the nature and scope of the ~~matter;~~collaborative matter.

(5) ~~identify~~Identify the collaborative lawyer who represents each party in the
~~process;~~ and collaborative law process.

(6) ~~contain~~Contain a statement by each collaborative lawyer confirming the
collaborative lawyer's representation of a party in the collaborative law
process.

(7) State that the collaborative lawyers are disqualified from representing their respective parties in a proceeding before a tribunal related to the collaborative matter, except as provided in G.S. 1-647, 1-649(c) and (d), 1-650, or 1-651.

(8) Provide an address for each party where any notice required under this Article may be sent.

(b) Parties may agree to include in a collaborative law participation agreement additional provisions not inconsistent with this ~~{act}.~~Article.

"§ 1-645. Beginning and concluding collaborative law ~~process.~~process; tolling of time periods.

(a) A collaborative law process begins when the parties sign a collaborative law participation agreement.

(b) A tribunal ~~may~~shall not order a ~~party~~person to participate in a collaborative law process over that ~~party's~~person's objection.

(c) A collaborative law process is concluded by ~~a:~~any of the following:

(1) ~~resolution~~Resolution of a collaborative matter as evidenced by a signed ~~record;~~record.

(2) ~~resolution~~Resolution of a part of the collaborative matter, evidenced by a signed record, in which the parties agree that the remaining parts of the collaborative matter will not be resolved in the ~~process;~~ or collaborative law process.

(3) ~~termination~~Termination of the process.

(d) A collaborative law process ~~terminates~~terminates upon the occurrence of any of the following:

(1) ~~when~~When a party ~~or collaborative lawyer~~ gives notice to all other parties in a record that the collaborative law process is ~~ended~~ended.

(2) ~~when~~When a ~~party~~party does any of the following:

~~(A)~~a. ~~begins~~Begins a proceeding related to ~~the~~ collaborative matter without the agreement of all ~~parties; or~~parties, except as provided in G.S. 1-647.

~~(B)~~b. ~~in~~In a pending proceeding related to the ~~matter~~collaborative matter, does any of the following:

~~(i)~~1. ~~initiates~~Without the agreement of all parties, initiates a pleading, motion, order to show cause, or request for a conference with the ~~tribunal~~tribunal, except as provided in G.S. 1-647.

~~(ii)~~2. ~~requests~~Requests that the proceeding be put on the ~~[tribunal's active calendar]; or~~tribunal's active calendar.

~~(iii)~~—takes similar action requiring notice to be sent to the parties; or

(3) ~~except~~Except as otherwise provided ~~by~~in subsection ~~(g)~~(g) of this section, when a party discharges a collaborative lawyer or a collaborative lawyer withdraws from further representation of a party.

(e) A party's collaborative lawyer shall give prompt notice to all other parties in a record of a discharge or withdrawal.

(f) A party may terminate a collaborative law process with or without cause.

(g) Notwithstanding the discharge or withdrawal of a collaborative lawyer, a collaborative law process continues, if not later than 30 days after the date that the notice of the discharge or withdrawal of a collaborative lawyer required by subsection (e) of this section is sent to the ~~parties;~~parties, all of the following occur:

(1) ~~the~~The unrepresented party engages a successor collaborative ~~lawyer;~~
~~and~~lawyer.

(2) ~~in~~In a signed ~~record;~~record, all of the following occur:

~~(A)~~a. ~~the~~The parties consent to continue the collaborative law process by reaffirming the collaborative law participation ~~agreement;~~agreement.

~~(B)~~b. ~~the~~The collaborative law participation agreement is amended to identify the successor collaborative ~~lawyer;~~andlawyer.

~~(C)~~c. ~~the~~The successor collaborative lawyer confirms the lawyer's representation of a party in the collaborative law ~~process;~~process
and adherence to the collaborative law participation agreement.

(h) A collaborative law process does not conclude if, with the consent of the parties, a party requests a tribunal to approve a resolution of the collaborative matter or any part thereof as evidenced by a signed record.

(i) A collaborative law participation agreement may provide additional methods of concluding a collaborative law process.

(j) A collaborative law participation agreement tolls all legal time periods applicable to legal rights and issues under law between the parties from the time the parties sign a

collaborative law participation agreement until terminated as set forth in this subsection. This subsection applies to any applicable statutes of limitations, statutes of repose, filing deadlines, or other time limitations imposed by law, court rule, or court order. The tolling period continues until terminated by any party delivering notice to all other parties of an intent to terminate the tolling period. The notice shall be delivered by hand delivery or by certified mail, return receipt requested, to all other parties, and the tolling period terminates 30 days after receipt by the last party to receive the notice.

"§ 1-646. Proceedings pending before tribunal; status report.

(a) Persons in a proceeding pending before a tribunal may sign a collaborative law participation agreement to seek to resolve a collaborative matter related to the proceeding. The parties shall file promptly with the tribunal a notice of the collaborative law participation agreement after it is signed. Subject to subsection (c) of this section and ~~Sections 7 and 8, G.S. 1-647 and G.S. 1-648,~~ the filing operates as ~~an application for a stay of the proceeding~~ a stay of the proceeding as to the parties in the collaborative law process as long as the parties are in that process.

(b) The parties shall file promptly with the tribunal notice in a record when a collaborative law process concludes. The stay of the proceeding under subsection (a) of this section is lifted when the notice is filed. The notice ~~may~~shall not specify any reason for termination of the collaborative law process.

(c) A tribunal in which a proceeding is stayed under subsection (a) of this section may require the parties and collaborative lawyers to provide a status report on the collaborative law process and the proceeding. A status report may include only information on whether the collaborative law process is ongoing or concluded. It ~~may~~shall not include a report, assessment,

1 evaluation, recommendation, finding, or other communication regarding a collaborative law
2 process or collaborative ~~law~~ matter.

3 (d) A tribunal ~~may~~shall not consider a communication made in violation of
4 subsection ~~(e)-(c) of this section.~~

5 (e) A tribunal shall provide parties notice and an opportunity to be heard before
6 dismissing a proceeding in which a notice of collaborative law process is filed based on delay or
7 failure to prosecute.

8 **"§ 1-647. Emergency order.**

9 During a collaborative law process, a party may begin a proceeding and a tribunal may
10 issue emergency orders upon motion of a party in that or an already pending proceeding to
11 protect the health, safety, welfare, or interest of a party or ~~insert term for family or household~~
12 ~~member as defined in [state civil protection order statute]]~~otherwise preserve the status quo.

13 **"§ 1-648. Approval of agreement by tribunal.**

14 A tribunal may approve an agreement resulting from a collaborative law process.

15 **"§ 1-649. Disqualification of collaborative lawyer and lawyers in associated law firm.**

16 (a) Except as otherwise provided in subsection ~~(e)-(c) of this section and G.S. 1-650~~
17 and G.S. 1-651, a collaborative lawyer is disqualified from appearing before a tribunal to
18 represent a party in a proceeding related to the collaborative matter.

19 (b) Except as otherwise provided in subsection (c) of this section and ~~Sections 10 and~~
20 44 G.S. 1-650 and G.S. 1-651, a lawyer in a law firm with which the collaborative lawyer is
21 associated is disqualified from appearing before a tribunal to represent a party in a proceeding
22 related to the collaborative matter if the collaborative lawyer is disqualified from doing so under
23 subsection ~~(a)-(a) of this section.~~

(c) A collaborative lawyer or a lawyer in a law firm with which the collaborative lawyer is associated may represent a ~~party~~party to do any of the following:

(1) ~~to~~To ask a tribunal to approve an agreement resulting from the collaborative law ~~process; or~~process.

(2) ~~to~~To seek or defend an emergency order in either a pending or newly filed proceeding to protect the health, safety, welfare, or interest of a party, or ~~[insert term for family or household member as defined in [state civil protection order statute]] if a successor lawyer is not immediately available to represent that person.~~ otherwise preserve the status quo.

(d) ~~If subsection (c)(2) applies, a collaborative lawyer, or lawyer in a law firm with which the collaborative lawyer is associated, may represent a party or [insert term for family or household member] only until the person is represented by a successor lawyer or reasonable measures are taken to protect the health, safety, welfare, or interest of the person.~~ If subdivision (c)(2) of this section applies, a collaborative lawyer, or lawyer in a law firm with which the collaborative lawyer is associated, may continue to represent a party:

(1) Until the party is represented by a successor lawyer or for no more than 30 days after the date any action is taken under subdivision (c)(2) of this section, whichever occurs first; or

(2) If the parties consent to continue the collaborative law process subject to any emergency order which may have been entered, in which event, any proceeding as referenced in subdivision (c)(2) of this section shall be stayed as provided in G.S. 1-646.

"§ 1-650. Low income parties.

(a) The disqualification ~~of Section 9(a)~~under G.S. 1-649(a) applies to a collaborative lawyer representing a party with or without fee.

(b) After a collaborative law process concludes, another lawyer in a law firm with which a collaborative lawyer disqualified under ~~Section 9(a)~~G.S. 1-649(a) is associated may represent a party without fee in the collaborative matter or a matter related to the collaborative matter ~~if~~if all of the following apply:

(1) ~~the~~The party has an annual income that qualifies the party for free legal representation under the criteria established by the law firm for free legal ~~representation;~~representation.

(2) ~~the~~The collaborative law participation agreement so ~~provides;~~and provides.

(3) ~~the~~The collaborative lawyer is isolated from any participation in the collaborative matter or a matter related to the collaborative matter through procedures within the law firm which are reasonably calculated to isolate the collaborative lawyer from such participation.

"§ 1-651. Governmental entity as party.

(a) The disqualification ~~of Section 9(a)~~under G.S. 1-649(a) applies to a collaborative lawyer representing a party that is a government or governmental subdivision, agency, or instrumentality.

(b) After a collaborative law process concludes, another lawyer in a law firm with which the collaborative lawyer is associated may represent a government or governmental subdivision, agency, or instrumentality in the collaborative matter or a matter related to the collaborative matter ~~if~~if all of the following apply:

(1) ~~the~~The collaborative law participation agreement so ~~provides;~~
~~and~~provides.

(2) ~~the~~The collaborative lawyer is isolated from any participation in the
collaborative matter or a matter related to the collaborative matter through
procedures within the law firm which are reasonably calculated to isolate
the collaborative lawyer from such participation.

"§ 1-652. Disclosure of information.

(a) Except as provided by subsection (b) of this section or by law other than this
~~fact~~Article, during the collaborative law process, on the request of another party, a party shall
make timely, full, candid, and informal disclosure of all relevant information related to the
collaborative matter without formal discovery. A party also shall update promptly previously
disclosed information that has materially changed. ~~The parties may define the scope of~~
~~disclosure during the collaborative law process.~~

(b) ~~The parties may define the scope and terms of the disclosure during the~~
~~collaborative law process.~~

"§ 1-653. Standards of professional responsibility ~~and mandatory reporting~~ not affected.

This ~~fact~~Article does not ~~affect~~affect the professional responsibility obligations and
standards applicable to a lawyer or other licensed professional, including rules governing the
confidentiality of information acquired by a lawyer during the professional relationship with a
client.

~~(1) the professional responsibility obligations and standards applicable to a~~
~~lawyer or other licensed professional; or~~

- (2) ~~the obligation of a person to report abuse or neglect, abandonment, or exploitation of a child or adult under the law of this state.~~

"§ 1-654. ~~Appropriateness of collaborative law process.~~Informed consent.

Before a prospective party signs a collaborative law participation agreement, a prospective collaborative lawyer ~~shall:~~shall do all of the following:

- (1) ~~assess~~Assess with the prospective party factors the lawyer reasonably believes relate to whether a collaborative law process is appropriate for the prospective party's ~~matter;~~matter.

- (2) ~~provide~~Provide the prospective party with information that the lawyer reasonably believes is sufficient for the prospective party to make an informed decision about the material benefits and risks of a collaborative law process as compared to the material benefits and risks of other reasonably available alternatives for resolving the proposed collaborative matter, such as litigation, mediation, arbitration, or expert ~~evaluation;~~
~~and evaluation.~~ The information provided shall include the respective rules regarding privilege and confidentiality that apply to each of the alternative means of resolving disputes.

- (3) ~~advise~~Advise the prospective party that:

- ~~(A)a.~~ ~~after~~After signing ~~ana collaborative law participation~~ agreement if a party initiates a proceeding or seeks tribunal intervention in a pending proceeding related to the collaborative matter, the collaborative law process ~~terminates;~~terminates except as provided in G.S. 1-647.

~~(B)b.~~ Participation in a collaborative law process is voluntary and any party has the right to terminate unilaterally a collaborative law process with or without ~~cause; and~~ cause.

~~(C)c.~~ ~~the~~ The collaborative lawyer and any lawyer in a law firm with which the collaborative lawyer is associated ~~may~~ shall not appear before a tribunal to represent a party in a proceeding related to the collaborative matter, except as authorized by ~~Section 9(e), 10(b), or 11(b).~~ G.S. 1-649(c), 1-650(b), or 1-651(b).

"§ 1-655. ~~Coercive or violent relationship.~~

~~(a) Before a prospective party signs a collaborative law participation agreement, a prospective collaborative lawyer shall make reasonable inquiry whether the prospective party has a history of a coercive or violent relationship with another prospective party.~~

~~(b) Throughout a collaborative law process, a collaborative lawyer reasonably and continuously shall assess whether the party the collaborative lawyer represents has a history of a coercive or violent relationship with another party.~~

~~(c) If a collaborative lawyer reasonably believes that the party the lawyer represents or the prospective party who consults the lawyer has a history of a coercive or violent relationship with another party or prospective party, the lawyer may not begin or continue a collaborative law process unless:~~

~~(1) the party or the prospective party requests beginning or continuing a process; and~~

~~(2) the collaborative lawyer reasonably believes that the safety of the party or prospective party can be protected adequately during a process.~~

Reserved.

"§ 1-656. Confidentiality of collaborative law communication.²

A collaborative law communication ~~is confidential~~ may not be disclosed to anyone other than a party, a party's collaborative lawyer, or a non-party participant except to the extent agreed by the parties in a signed record or as provided by law of this State other than this Article.

"§ 1-657. Privilege against disclosure for collaborative law communication; admissibility; discovery.

(a) Subject to ~~Sections 18 and 19, G.S. 1-658 and G.S. 1-659,~~ a collaborative law communication is privileged under subsection ~~(b), (b) of this section,~~ is not subject to discovery, and is not admissible in evidence.

(b) In a proceeding, the following privileges apply:

(1) A party may refuse to disclose, and may prevent any other person from disclosing, a collaborative law communication.

² § 1-656 is based on Section 16 of the Uniform Collaborative Law Act. The Official Comment to Section 16 reads:

In [Sections 17, 18, and 19/§§ 1-657, 1-658, and 1-659], the act creates an evidentiary privilege for collaborative law communications that prevents them from being admitted into evidence in legal proceedings. As previously discussed in the Prefatory Note [to the Uniform Collaborative Law Act], the Drafting Committee recommends that a statute only assure that aspect of confidentiality relating to evidence compelled in judicial and other legal proceedings. *See supra*. [Section 16/§ 1-656] encourages parties to a collaborative law process to reach agreement on broader confidentiality matters such as disclosure of collaborative law communications to third parties between themselves.

The Prefatory Note to the Uniform Collaborative Law Act reads, in relevant part:

Confidentiality of communications can also refer to broader concepts than admission of the information into the formal record of a proceeding. It is possible for collaborative law communications to be disclosed outside of legal proceedings, for example, to family members, friends, business associates, the press and the general public. Like the Uniform Mediation Act, however, the [Uniform Collaborative Law Act limits] statutory protections for confidentiality to legal proceedings. It does not prohibit disclosure of collaborative law communications to third parties outside of legal proceedings. That issue is left to the agreement of the parties as expressed in their collaborative law participation agreements, other bodies of law and to the ethical standards of the professions involved in collaborative law. *See* [Section 16/§ 1-656].

(2) A nonparty participant may refuse to disclose, and may prevent any other person from disclosing, a collaborative law communication of the nonparty participant.

(c) Evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely because of its disclosure or use in a collaborative law process.

"§ 1-658. Waiver and preclusion of privilege.

(a) A privilege under ~~Section 17~~G.S. 1-657 may be waived in a record or orally during a proceeding if it is expressly waived by all parties and, in the case of the privilege of a nonparty participant, it is also expressly waived by the nonparty participant.

(b) A person that makes a disclosure or representation about a collaborative law communication which prejudices another person in a proceeding ~~may~~shall not assert a privilege under ~~Section 17~~G.S. 1-657, but this preclusion applies only to the extent necessary for the person prejudiced to respond to the disclosure or representation.

"§ 1-659. Limits of privilege.

(a) There is no privilege under ~~Section 17~~G.S. 1-657 for a collaborative law communication that ~~is~~is any of the following:

- (1) ~~available~~Available to the public under ~~{state open records act}~~Chapter 132 of the General Statutes or made during a session of a collaborative law process that is open, or is required by law to be open, to the ~~public~~public.
- (2) ~~a~~A threat or statement of a plan to inflict bodily injury or commit a crime of ~~violence~~violence.

(3) ~~intentionally~~Intentionally used to plan a crime, commit or attempt to commit a crime, or conceal an ongoing crime or ongoing criminal ~~activity;~~

~~or activity.~~

(4) ~~in~~In an agreement resulting from the collaborative law process, evidenced by a record signed by all parties to the agreement.

(b) The privileges under ~~Section 17~~G.S. 1-657 for a collaborative law communication do not apply to the extent that a collaborative law communication ~~is~~is sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice arising from or related to a collaborative law process.

~~(1) sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice arising from or related to a collaborative law process; or~~

~~(2) sought or offered to prove or disprove abuse, neglect, abandonment, or exploitation of a child or adult, unless the [child protective services agency or adult protective services agency] is a party to or otherwise participates in the process.~~

(c) There is no privilege under ~~Section 17~~G.S. 1-657 if a tribunal finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown the evidence is not otherwise available, the need for the evidence substantially outweighs the interest in protecting confidentiality, and the collaborative law communication is sought or offered ~~in~~in any of the following:

(1) ~~a court proceeding involving a felony [or misdemeanor]; or~~A criminal action involving the prosecution of a felony.

(2) ~~a~~A proceeding seeking rescission or reformation of a contract arising out of the collaborative law process or in which a defense to avoid liability on the contract is asserted.

(d) If a collaborative law communication is subject to an exception under subsection (b) or ~~(e);(c) of this section~~, only the part of the collaborative law communication necessary for the application of the exception may be disclosed or admitted.

(e) Disclosure or admission of evidence excepted from the privilege under subsection (b) or (c) of this section does not make the evidence or any other collaborative law communication discoverable or admissible for any other purpose.

(f) The privileges under ~~Section 17~~G.S. 1-657 do not apply if the parties agree in advance in a signed record, or if a record of a proceeding reflects agreement by the parties, that all or part of a collaborative law process is not privileged. This subsection does not apply to a collaborative law communication made by a person that did not receive actual notice of the agreement before the collaborative law communication was made.

"§ 1-660. Authority of tribunal in case of noncompliance.

(a) If an agreement fails to meet the requirements of ~~Section 4~~G.S. 1-644 or a lawyer fails to comply with ~~Section 14 or 15~~G.S. 1-654, a tribunal may nonetheless find that the parties intended to enter into a collaborative law participation agreement if ~~they~~they did both of the following:

(1) ~~signed~~Signed a record indicating an intention to enter into a collaborative law participation ~~agreement; and~~agreement.

(2) ~~reasonably~~Reasonably believed they were participating in a collaborative law process.

(b) If a tribunal makes the findings specified in subsection ~~(a)~~(a) of this section and the interests of justice require, the tribunal ~~may~~may do all of the following:

- (1) ~~enforce~~Enforce an agreement evidenced by a record resulting from the collaborative law process in which the parties ~~participated~~participated.
- (2) ~~apply~~Apply the disqualification provisions ~~of Sections 5, 6, 9, 10, and 11~~and in G.S. 1-645, 1-646, 1-649, 1-650, and 1-651.
- (3) ~~apply~~Apply a privilege under ~~Section 17~~G.S. 1-657.

"§ 1-660.1. Alternate dispute resolution permitted.

Nothing in this Article shall be construed to prohibit the parties from using, by mutual agreement, other forms of non-adversarial alternate dispute resolution, including mediation, to reach a settlement on any of the issues included in the collaborative law participation agreement. The parties' collaborative lawyers may also serve as counsel for any form of non-adversarial alternate dispute resolution pursued as part of the collaborative law participation agreement so long as it is not a proceeding as that term is defined in G.S. 1-642(10).

"§ 1-661. Uniformity of application and construction.

In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

"§ 1-662. Relation to Electronic Signatures in Global and National Commerce Act.

This ~~act~~Article modifies, limits, or supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. ~~Section 7001~~§ 7001, et seq., but does not modify, limit, or supersede Section 101(c) of that ~~act~~Act, 15 U.S.C. ~~Section 7001(e)~~§ 7001(c), or authorize electronic delivery of any of the notices described in Section 103(b) of that ~~act~~Act, 15 U.S.C. ~~Section 7003(b)~~§ 7003(b)."

1 **SECTION 2.** If any provision of this act or its application to any person or circumstance
2 is held invalid, the invalidity does not affect other provisions or applications of this act which
3 can be given effect without the invalid provision or application, and to this end the provisions of
4 this act are severable.

5 **SECTION 3.** The Revisor of Statutes shall cause to be printed, as annotations to the
6 published General Statutes, all relevant portions of the Official Comments to the Uniform
7 Collaborative Law Act and all explanatory comments of the drafters of this act as the Revisor
8 may deem appropriate.

9 **SECTION 4.** This act becomes effective [January 1, 2019].